

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARK OSEGUERA-CHAVEZ,

Petitioner,

v.

NETHANJAH BREITENBACH,

Respondents.

Case No. 3:24-cv-00047-ART-CSD

ORDER

Petitioner Mark Oseguera-Chavez has filed a *pro se* petition for writ of habeas corpus under 28 U.S.C. § 2254. ECF No. 1-1. Following the appointment of counsel, the parties have stipulated to a stay under *Rhines v. Weber*, 544 U.S. 269 (2005), while Oseguera-Chavez litigates his state postconviction petition. ECF No. 11. The Court grants the parties' stipulation to stay pending Oseguera-Chavez's ongoing habeas proceedings in state court.

It is therefore ordered that the parties' Stipulation to Stay Case (ECF No. 11) is granted.

It is further ordered that this action is STAYED pending Oseguera-Chavez's ongoing habeas proceedings in state court.

It is further ordered that the grant of a stay is conditioned upon Oseguera-Chavez filing, if same is not already pending, a state post-conviction petition or other appropriate proceeding in state district court within forty-five (45) days of entry of this order and returning to federal court with a motion to reopen within forty-five (45) days of issuance of the remittitur by the Supreme Court of Nevada at the conclusion of all state court proceedings.¹

¹ If *certiorari* review will be sought or thereafter is being sought, either party may move to extend the stay for the duration of such proceedings. *Cf. Lawrence v. Florida*, 549 U.S. 327, 335 (2007).

1 It is further ordered that any motion to reopen filed following completion of
2 all state court proceedings, Oseguera-Chavez: (a) shall attach supplemental
3 exhibits containing the new state court pleadings and the state court written
4 decisions thereon; and (b) if Oseguera-Chavez intends to amend the federal
5 petition, shall file a motion for leave to amend along with the proposed amended
6 petition or a motion for extension of time to move for leave.

7 It is further ordered that the Clerk of Court is directed to
8 ADMINISTRATIVELY CLOSE this action until such time as the court grants a
9 motion to reopen the matter.

10 It is further ordered that the Court will reset the briefing schedule upon
11 reopening the case and lifting the stay.

12 DATED THIS 15th day of October, 2024.

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15 ANNE R. TRAUM
16 UNITED STATES DISTRICT JUDGE
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